

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **CHAIRMAN DEBBY BARRETT**, on March 11, 2003 at 9 A.M., in Room 455 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Debby Barrett, Chairman (R)  
Rep. Dee Brown, Vice Chairman (R)  
Rep. Norman Ballantyne (D)  
Rep. Arlene Becker (D)  
Rep. Sue Dickenson (D)  
Rep. Carol Gibson (D)  
Rep. Daniel S. Hurwitz (R)  
Rep. Hal Jacobson (D)  
Rep. Larry Lehman (R)  
Rep. Alan Olson (R)  
Rep. Bernie Olson (R)  
Rep. Don Roberts (R)  
Rep. Clarice Schrumpf (R)  
Rep. Frank Smith (D)  
Rep. Pat Wagman (R)  
Rep. Jonathan Windy Boy (D)  
Rep. Cindy Younkin (R)

**Members Excused:** Rep. Larry Jent, Vice Chairman (D)  
Rep. Ralph Lenhart (D)

**Members Absent:** None.

**Staff Present:** Sheri Heffelfinger, Legislative Branch  
Joan Reiman, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing & Date Posted: SB's 79, 80, 81, 3/6/2003  
Executive Action: SB's 79, 80, 81  
HB's 13, 360

HEARING ON SB 79

Sponsor: SEN. MIKE SPRAGUE, SD 6

Opening Statement by Sponsor:

SEN. SPRAGUE said this bill would let the people vote on whether Sessions should be annual. He cited Colorado's annual Legislature; they meet one year on social issues and the next on budgetary matters.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 5.6}

Proponents' Testimony:

Joy Bruck, Lobbyist, League of Women Voters, said this would be more efficient and less costly if it decreases special sessions. She provided written testimony.

EXHIBIT(sth51a01)

{Tape: 1; Side: A; Approx. Time Counter: 5.6 - 7.2}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

Questions to the sponsor from REPS. BECKER, BROWN, DICKENSON, A. OLSON, B. OLSON, and ROBERTS concerned whether the budget could be done within 45 days, whether three weeks before transmittal would be enough, and how Colorado's system worked. SEN. SPRAGUE said the present system means the budget takes longer, because legislators wait to see what will happen. A lot of legislation is now pre-emptive, whereas with annual sessions, there would not be a panic to get a bill in or wait two more years. He did not know if Colorado had term limits. Interim committees would work faster and better; leadership would decide what the focus of the Session would be, sponsor said.

He continued, the bill does not restrict special sessions, but would help eliminate special sessions. He called them "organized chaos, which looks poor to the public." He said legislators are always on the defensive in special sessions.

REP. HURWITZ asked how it would affect part time help in the Capitol. SEN. SPRAGUE said it would be better for them and also for Lewis & Clark county. Motels can plan, and staffing would be easier if the session was yearly.

{Tape: 1; Side: A; Approx. Time Counter: 7.2 - 17.6}

**Closing by Sponsor:**

**SEN. SPRAGUE** said this passed 43-7 in the Senate; he would need a House sponsor if this passes committee.

**HEARING ON SB 81**

**Sponsor:**     **SEN. MIKE COONEY, SD 26**

**Opening Statement by Sponsor:**

**SEN. COONEY** said this was drafted at the request of Office of Public Instruction (OPI). It would allow honorary high school diplomas for qualified veterans. Changes made in the Senate added Vietnam veterans.

***{Tape: 1; Side: A; Approx. Time Counter: 18 - 23}***

**Proponents' Testimony:**

**Linda McCulloch, State Superintendent of Public Instruction,** said this would recognize the sacrifices and life experience of World War II vets who did not finish. General Equivalency Diplomas (GED's) were created later for returning veterans. Some 26 other states have similar legislation. Montana ranks second for veterans per capita. She provided written testimony.

**EXHIBIT (sth51a02)**

**Kris Kochler, Project for Alternative Learning, Helena,** testified in favor.

**Col. Goldes, US Army Retired,** spoke for the bill.

**Col. Jim Jacobsen, Retired Veteran,** said this costs nothing.

**REP. VERONICA SMALL-EASTMAN, HD 6, Representing the Crow and Northern Cheyenne Tribes,** also testified in favor.

***{Tape: 1; Side: A; Approx. Time Counter: 23 - 38}***

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. ROBERTS** asked how the diplomas would be distributed. **SEN. COONEY** said there are plans for a special ceremony for the first

ones, to get publicity so others see it's available. **Ms. McCulloch** said it is flexible; they can go in the mail or be distributed at high school graduations, or at the Veteran's Hospital.

*{Tape: 1; Side: A; Approx. Time Counter: 38 - 41}*

Closing by Sponsor:

The Sponsor closed.

HEARING ON SB 80

Sponsor: SEN. RICK LAIBLE, SD 30

Opening Statement by Sponsor:

SEN. LAIBLE said the bill prohibits standing committees from meeting during the Interims.

*{Tape: 1; Side: A; Approx. Time Counter: 43 - 44}*

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony:

Lois Menzies, Executive Director, Legislative Services Division, was there to answer questions.

Questions from Committee Members and Responses:

REP. A OLSON asked if this has been a problem and sponsor replied committees had met and then requested payment. **Ms. Menzies** said their position was not to pay; the question was raised by Chief Legal Counsel. REP. YOUNKIN asked for codification instructions. **Ms. Heffelfinger** said it would wind up in Code. **Ms. Menzies** said new language would give instructions where it is to be codified. She will get more information for committee.

REP. BECKER asked if other state legislatures allow lawmakers to meet in advance. REP. YOUNKIN thought tax committees, for one, could. REP. LEHMAN said it was deemed illegal to take action without being sworn in. He told sponsor they could amend this. **Ms. Menzies** said 5-2-202 MCA covered pre-session activity. The committees which can meet pre-session are Rules, Administrative,

and Committee on Committees. She will work with staff on amendments to clarify.

**Closing by Sponsor:**

The Sponsor closed

*{Tape: 1; Side: A; Approx. Time Counter: 44 - 54}*

**EXECUTIVE ACTION ON SB 81**

**Motion/Vote:** REP. YOUNKIN moved SB 81 BE CONCURRED IN. Motion carried 19-0. Proxies were received from REPS. JENT, DICKENSON, LENHART and WINDY BOY.

**Discussion:**

REP. LEHMAN noted the effective date is immediate, allowing this to be done with spring graduations.

**Motion/Vote:** REP. WAGMAN moved SB 81 to THE CONSENT CALENDAR. Motion carried 19-0. Proxies were received from REPS. JENT, DICKENSON, LENHART and WINDY BOY.

*{Tape: 1; Side: B; Approx. Time Counter: 0 - 2}*

**EXECUTIVE ACTION ON SB 80**

**Motion/Vote:** REP. YOUNKIN moved SB 80 BE CONCURRED IN.

**Motion/Vote:** REP. YOUNKIN moved SB 80 CONCEPTUAL AMENDMENT TO INSERT THE CODE CITATION 5-5-2-2 ON LINE 12.

**Discussion:**

Ms. Heffelfinger asked if that would put a codification for Title V. CHAIRMAN BARRETT called Lois Menzies, who testified that the title would change, and also the bill would allow committees to perform organizational tasks before regular sessions. Ms.

Heffelfinger explained that the amendment changes the title, adds language on line 12, and gives codification instructions to put this in Title V and on the LSD's "strawberry sheet."

*{Tape: 1; Side: B; Approx. Time Counter: 2 - 6}*

**Substitute Motion:** REP. YOUNKIN made a substitute motion for THE SB 80 CONCEPTUAL AMENDMENT.

**Discussion:**

**Ms. Heffelfinger** explained the amendment. **REP. GIBSON** asked if it isn't a loophole. **CHAIRMAN BARRETT** replied that the loophole already exists in the law. **REP. YOUNKIN** said they made sure the new sections do not conflict with law.

**Vote:** Motion carried 19-0 with REPS. JENT, LENHART and WINDY BOY voting by proxy.

**Motion:** REP. YOUNKIN moved SB 81 AS AMENDED BE CONCURRED IN. Vote was 19-0, with REPS. JENT, LENHART and WINDY BOY voting by proxy.

**Motion:** REP. YOUNKIN moved SB 81 TO THE CONSENT CALENDAR. Vote was 19-0 with JENT, LENHART and WINDY BOY voting by proxy.  
{Tape: 1; Side: B; Approx. Time Counter: 6 - 10}

**EXECUTIVE ACTION ON SB 79**

REP. YOUNKIN moved SB 79 BE CONCURRED IN.

**Discussion:**

**REP. YOUNKIN** said SEN BOHLINGER had this bill in last session and Speaker MCGEE was against. But she thinks everyone should be on the Tax or Appropriations Committee one time, so they see this important work. **REP. BROWN** was against. **REP. LEHMAN** agreed with REP. YOUNKIN; he said a small enclave makes decisions and he feels left out. Then they have to make those decisions in three days on HB 2. **REP. WAGMAN** asked if it would limit the number of days they could extend the session.

{Tape: 1; Side: B; Approx. Time Counter: 10 - 13}

**REP. YOUNKIN** said the last two sessions adjourned early. It is unpopular to extend; they have to call it into Special Session with a 3/4 vote. This bill would provide the same number of days each year. **REP. JACOBSON** said this was tried in the 1970s. **REP. YOUNKIN** said the 1972 Constitution went to annual, but it only happened twice. In the mid-70s, it went back to biennial.

**REP. DICKENSON** said if they go annual, all legislators would have more to do with the budget. She asked if committees would be larger. **CHAIRMAN BARRETT** said that is her concern also. She asked for information on how Colorado does it. **REP. DICKENSON** asked if that would be up to the legislature. Yes was the answer.

**{Tape: 1; Side: B; Approx. Time Counter: 13 - 17}**

**REP. YOUNKIN** said she envisions a subcommittee for each of the 18 administrative department budgets. Spreading 100 members over 18 committees would result in smallish committees. It would allow them to go over the budget with a fine toothed comb. The Colorado budget is larger, and they manage. **REP. BECKER** asked how long the Colorado Sessions were. **REP. YOUNKIN** did not have that information.

**REP. HURWITZ** said if he could be exposed to the budget early on he could know what is going on. Freshmen are especially disadvantaged. **REP. SCHRUMPF** wanted to know how many legislators Colorado had. No one knew. **REP. BERNIE OLSON** said we have the largest legislature in the US. **CHAIRMAN BARRETT** was for the motion on an efficiency basis, but said it would not save money.

**REP. WINDY BOY** asked if there were amendments. There were not. He agreed with **REP. YOUNKIN** and said the tribes do similarly. It would take pressure off Appropriations. **REP. LEHMAN** quoted SEN. BOHLINGER's question: How many corporations with a \$6 million budget would only meet biennially? **REP. BALLANTYNE** said the first session that meets would have to address the budget; he asked if that needed to be spelled out. **CHAIRMAN BARRETT** replied that if it passes, there will be new rules.

**REP. WINDY BOY** asked if they could put this to a subcommittee before they take action. **CHAIRMAN BARRETT** said they could, but she wants to know how Colorado does it. **REP. YOUNKIN** said she would carry it on the floor, and they would have that information for discussion.

**Vote:** Motion carried 17-2. Voting no were **WAGMAN** and **BROWN**.

Voting by proxy were **JENT**, **JACOBSON**, **LENHART**.

**{Tape: 1; Side: B; Approx. Time Counter: 17 - 23}**

#### EXECUTIVE ACTION ON HB 360

**Motion:** **REP. B. OLSON** moved HB 360 DO PASS.

**Discussion:** **REP. BROWN** asked how it would dovetail with HB 13.

**Motion:** **REP. A. OLSON** moved HB 360 AMENDMENTS 036004.ash.

**EXHIBIT**(sth51a03)

**EXHIBIT**(sth51a04)

**{Tape: 1; Side: B; Approx. Time Counter: 23 - 28}**

**Discussion.**

**Ms. Heffelfinger** explained the amendment and answered questions of committee. This bill has different funding than HB 13; the coal tax fund is not used. It does not include elected officials or the university system. The employee would receive 3%, not 5%. The agency must transfer funds to cover buyouts into the Termination Incentive Account set up by legislative staff. Employees can choose to take a lump sum, or monthly payments, based on salary times years of service times 3%. There is no cap on the number who can apply for it.

**{Tape: 1; Side: B; Approx. Time Counter: 28 - 44}**

**Ms. Heffelfinger** deferred to her supervisor, **Jim Gillett**, to answer **REP. BROWN'S** question, whether they should consider an age limit or service limit. **Mr. Gillett** testified that the federal government is more likely to reimburse some of the expense, the more broad based the participation of employees is. **REP. BECKER** asked whether the university system should be in on this. He replied that the Regents have authority to do this with the university system. They have a program now covering the Extension Services for people near retirement age.

**Mr. John McEwen, State Personnel Division Administrator** was called. He said the hiring freeze would sunset on June 30, 2003, so agencies would be able to begin filling existing vacancies. Discussion centered on need for this bill. **REP. LEHMAN** said some unproductive employees stay because they have a type of "tenure". **REP. BROWN** said there are "way too many state employees."

**{Tape: 1; Side: B; Approx. Time Counter: 47 - 60}**

**Mr. Tom Schneider, Executive Director, MPEA**, was called to testify. He said if this plan works, "It is what the employees want."

**Ms. Heffelfinger** said that appropriations will come from each agency to cover their terminating employees; the bill does not micro manage what agencies do.

**{Tape: 2; Side: A; Approx. Time Counter: 0 - 18}**

**Vote:** Motion on HB 360 AMENDMENT (036004.ash -- Exhibit 3) carried 19-0. Voting proxy were **LEHMAN, LENHART, JENT**.

**Motion:** **REP. YOUNKIN** moved HB 360 AMENDMENT (036003.ash)



**Discussion:**

The amendment had already been distributed on a previous day.

**Ms. Heffelfinger** said the termination annuity would not be included as termination pay in retirement systems.

**Vote:** Motion on HB 360 AMENDMENT (036003.ash) carried 19-0.  
Voting proxy were REPS. LEHMAN, LENHART, JENT.

**Motion:** REP. A. OLSON moved HB 360 DO PASS AS AMENDED. On a voice vote, motion carried 19-0. Voting proxy were REPS. LEHMAN, LENHART, JENT.

REP. WINDY BOY asked if the amendment changed the fiscal note. CHAIRMAN BARRETT said that they needed a new one.

**EXECUTIVE ACTION ON HB 13**

**Motion:** REP. A. OLSON moved HB 13.

**Motion:** REP. A. OLSON moved HB 13 AMENDMENT 2 (01302.ash).  
**EXHIBIT**(sth51a05)

**Discussion:**

**Ms. Heffelfinger** explained the amendment was on top, and the amended "gray bill" was attached. There are coordinating instructions with this amendment; if HB 2 does not pass, the bill will revert to the way it was introduced. CHAIRMAN BARRETT noted sponsor worked with the subcommittee on this. REP. A. OLSON said now there are no more steps for state employees. All raises are based on legislative action, so there will be no "leap-frogging."

*{Tape: 2; Side: A; Approx. Time Counter: 26.5 - 39.5}*

**Vote:** Motion carried 19-0 with REPS. JENT AND LENHART voting by proxy.

**Motion:** REP. A. OLSON moved HB 13 DO PASS AS AMENDED. Motion carried 19-0 with REPS. JENT AND LENHART voting by proxy.  
*{Tape: 2; Side: A; Approx. Time Counter: 39.5 - 42}*

**ADJOURNMENT**

Adjournment: 11:40 A.M.

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REP. DEBBY BARRETT, Chairman

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JOAN REIMAN, Secretary

DB/JR

**EXHIBIT**(sth51aad)